

Message Text

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ORIGIN ARA-10

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TO USDEL SECRETARY PRIORITY

C O N F I D E N T I A L STATE 250582 TOSEC 160182

E.O. 11652: GDS

TAGS: OVIP (KISSINGER, HENRY A.) PFOR, EC

SUBJECT: BRIEFING MEMORANDUM: NEW DEVELOPMENTS IN THE
MARCONA CASE

FOR SECRETARY FROM ROGERS

1. ON OCTOBER 16, PERUVIAN FONMIN DE LA FLOR CALLED IN
AMBASSADOR DEAN TO TELL HIM NEGOTIATIONS WITH MARCONA
MINING ON EXPROPRIATION COMPENSATION WERE STALLED.
SPEAKING FOR THE MILITARY GOVERNMENT, HE URGED US TO
BEGIN SEEKING SOLUTION ON A GOVERNMENT-TO-GOVERNMENT
LEVEL. THE FOLLOWING DAY, THE GOP ISSUED PUBLIC
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ANNOUNCEMENT THAT DISCUSSIONS WITH THE COMPANY WERE

QUOTE TERMINATED, UNQUOTE FORCING US TO CONCLUDE THAT ONLY PRACTICAL MEANS OF SETTling COMPENSATION QUESTION NOW DICTATES DIRECT USG INVOLVEMENT IN NEGOTIATIONS WITH GOP.

2. ACCORDINGLY, DEPT IS SENDING ARA DEPUTY ASSISTANT SEC AL FISHLOW TO LIMA OCTOBER 22 FOR PROBE OF GOP'S INTENTIONS AND OBJECTIVES. HE WILL ALSO EXPLORE POSSIBLE VARIATIONS OF USG INVOLVEMENT (PERUVIANS SEEM TO FEEL WE SHOULD DESIGNATE PLENIPOTENTIARY TO WORK OUT SETTLEMENT AS WE DID IN THE SO-CALLED GREENE NEGOTIATIONS IN 1973-74), AND SUGGEST ALTERNATIVE AVENUES TO A SETTLEMENT.

3- NEED FOR PROMPT AND PALPABLE MOVEMENT TOWARD SOLUTION IS PARTICULARLY URGENT TO AVOID APPLICATION OF U.S. LEGISLATIVE SANCTIONS. MOST IMMINENT, IF THERE IS NO SIGNIFICANT PROGRESS BY GOP TOWARD SETTLEMENT IN NEAR FUTURE, IS PRESIDENTIAL FINDING THAT PERU IS INELIGIBLE FOR GSP; NOT FAR BEHIND WOULD BE NECESSITY FOR US TO DELAY OR VOTE NO ON SOME \$150 MILLION IN IFI LENDING TO PERU.

4. DIRECT USG INVOLVEMENT WITH GOP IN TALKS, AND PERHAPS LATER FORMAL NEGOTIATIONS, IS NOT IN ITSELF SUFFICIENT TO STAY APPLICATION OF GSP AND LENDING SANCTIONS, HENCE NEED TO DETERMINE QUICKLY IF GOP INTENDS SERIOUSLY TO NEGOTIATE SETTLEMENT SATISFACTORY TO MARCONA AND USG.

5. ON BALANCE, AT MOMENT, WE BELIEVE PERUVIANS INTEND THIS AND HOPE FISHLOW SOUNDINGS WILL AFFIRM OUR JUDGMENT. WHILE WE DO NOT BELIEVE GOP HAS ADEQUATELY WEIGHED MARCONA'S GOOD FAITH PROPOSALS FOR SETTLEMENT, VARIANTS OF WHICH WE WILL PUT FORWARD IN THIS WEEK'S TALKS, WE THINK GOP WILL BE SERIOUS IN DISCUSSIONS ON OFFICIAL PLANE.

6. AS HE TOLD YOU IN YOUR MEETING SEPTEMBER 24, DE LA FLOR REPEATED TO DEAN ASSERTION THAT GOVERNMENT'S TALKS WITH MARCONA HAVE GONE NO WHERE, LEAVING GOP CONFIDENTIAL

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SOLE ALTERNATIVE OF FINDING SETTLEMENT WITH USG OR DECIDING THAT DIGNITY OF STATE DEMANDS CESSATION OF ALL FURTHER EFFORTS TO REACH AGREEMENT AND ACCEPTING THE CONSEQUENCES, WHATEVER. OUR JUDGMENT IS THAT DE LA FLOR AND GOP FEEL NEGOTIATIONS WITH USG WILL INSULATE IT FROM POLITICAL ATTACK FROM THE LEFT (AS HE HINTED IN HIS TALK WITH YOU) AND THAT SOMEHOW WE WILL PUT PRESSURE ON THE COMPANY TO SETTLE FOR LESS

THAN IT DEMANDS.

7. FOR ITS PART, MARCONA, AS IT HAS PERIODICALLY IN THE PAST THREE MONTHS SINCE ITS EXPROPRIATION, HAS AGAIN EXPRESSED ITS DESIRE FOR A MORE DIRECT USG ROLE IN FINDING A SETTLEMENT.

8. IN INITIATING DISCUSSIONS IN LIMA THIS WEEK, WE INTEND TO MAKE TWO THINGS CLEAR: (A) USG INVOLVEMENT DOES NOT MEAN MARCONA IS WILLING TO ACCEPT LESS THAN AN EQUITABLE SETTLEMENT AND WE DO NOT INTEND TO APPROVE MUCH LESS IMPOSE ONE THAT IS NOT FAIR TO THE

COMPANY, AND (B) UNLESS THERE IS SUBSTANTIAL PROGRESS IN THE NEGOTIATIONS VERY QUICKLY WE WILL HAVE NO CHOICE BUT TO APPLY PROVISIONS OF U.S. LEGISLATION, INCLUDING DENIAL OF GSP. INGERSOLL

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